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MAY 9 1988-9 40 AM

May 9, 1988 INTERSTATE COMMERCE COMMISSION

No. 8-130A020

Date ... MAY 9 1988

Fee \$... 13.00

ICC Washington, D. C.

Ms. Mildred Lee
Recordations Unit
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, D.C. 20007

Dear Ms. Lee:

Enclosed is a Railcar Lease Agreement dated June 15, 1987,
between the following parties:

Lessor: Helm Financial Corporation
One Embarcadero Center
San Francisco, CA 94111

Lessee: Escanaba & Lake Superior Railroad
Wells, MI

The equipment involved in this agreement is as follows:

Equipment: 60, 70-ton 50' RBL & XPI Boxcars

Please record this document as an original. Thank you.

Sincerely,

Mary Ann Oster

Mary Ann Oster
Research Consultant

Enclosure

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RAILCAR LEASE AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, made and entered into as of this 15th day of June, 1987, by and between Helm Financial Corporation, a California corporation, hereinafter called "Lessor", and The Escanaba & Lake Superior Railroad, a Michigan corporation, hereinafter called "Lessee".

1. Equipment and Lease Charges: Lessor agrees to furnish to the Lessee, and the Lessee agrees to accept and use, upon the terms and conditions herein set forth, the following railcars (hereafter "Cars") described in Exhibit A attached hereto, for the use of each of which the Lessee agrees to pay Lessor the lease charges (hereafter "Lease Charges") set forth in Exhibit A.

Lease Charges shall become effective, with regard to each of the Cars, upon the date of the delivery of each as hereafter provided in Article 2, and shall continue in effect, with regard to each of the Cars, until returned to Lessor at the end of the term of this Agreement, as hereafter provided in Article 5. Payment of Lease Charges shall be made to Lessor at the address specified in Article 15, or to such other place as Lessor may direct, on the last day of each month in arrears, with the first month's payment due on the last day of the month following the month the last Car is delivered as provided in Article 2 below. Rent for any Car for any partial month shall be pro-rated on a daily basis. Any costs incurred by Lessor in collecting Lease Charges wrongfully withheld by Lessee, including reasonable attorney fees, will be paid by Lessee.

Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off, counterclaim, recoupment or defense against rent or any other amount payable hereunder for any reason whatsoever, including, but not limited to, abatements, reductions, set-offs, counterclaims, recoupments or defenses due or alleged to be due by reason of any past, present or future claims of Lessee against Lessor or any other person for any reason whatsoever, except as otherwise provided in Articles 4, 6, and 9 below; nor shall this Agreement terminate or the obligations of Lessee be otherwise affected by reason of any defect in the condition, design, operation or fitness for use of any Car or damage to or loss of possession or loss of use or destruction of all or any of such Cars from whatever cause and of whatever duration, except as otherwise provided in Article 4 below, or the prohibition of or other restriction against Lessee's use of all or any such Cars, or the interference with such use by any person or entity or the invalidity or unenforceability or lack of due authorization of this Agreement or any insolvency of or the bankruptcy, reorganization or similar proceeding against Lessee.

Lessor covenants that so long as Lessee is not in default hereunder, Lessee shall have and enjoy an unconditional right quietly to enjoy and use all Cars free from any disturbance or interruption of possession arising as a result of any action or inaction, failure of title, or conduct of or by Lessor, or of or

by any assignee of its rights hereunder.

2. Delivery of Cars: Lessor shall cause the cars to be delivered to Chicago, Illinois at the interchange of the Consolidated Rail Corporation. All freight charges beyond this point are for Lessee's account.

3. Warranties and Representation: LESSOR LEASES THE CARS AS IS AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND RESPECTING THE CARS WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED AND LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, NOR SHALL IT BE DEEMED BY VIRTUE OF HAVING LEASED THE CARS PURSUANT TO THIS AGREEMENT TO HAVE MADE, ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE WORKMANSHIP IN, THE CARS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED AND LESSOR SHALL NOT BE LIABLE, IN CONTRACT, TORT OR OTHERWISE, ON ACCOUNT OF ANY DEFECT, WHETHER HIDDEN, LATENT OR OTHERWISE DISCOVERABLE OR NONDISCOVERABLE RESPECTING ANY CAR.

4. Responsibility for Damage or Destruction of Cars: If any of the cars are lost, destroyed, or damaged beyond economic repair in the opinion of Lessee (except when the car is in the possession of Lessor), Lessee agrees to pay Lessor a settlement value for the Car in the amount of _____ within 60 days of advising Lessor of such occurrence. Lease Charges with respect to any Car shall abate upon the date Lessor is paid for such Car that has been lost, destroyed, or damaged beyond economic repair.

Upon payment by Lessee to Lessor of the settlement value of any Car as hereinabove provided, so long as Lessee is not in default hereunder, such Car and/or devices shall become the property of the Lessee.

In order to facilitate the sale or other disposition of any Car which becomes Lessee's property as hereinbefore provided, Lessor shall, upon request of Lessee, execute and deliver to Lessee or to Lessee's vendee, assignee or nominee, a bill of sale for such Car, warranting title free and clear of all liens, security interests, and other encumbrances (except such as may have arisen by, through or under Lessee during the term of this Agreement) and such other documents as may be required to release such Car from the terms and scope of this Agreement and from any other lien or encumbrance of Lessor's making, undertaking or sufferance, in such forms as may be reasonably required by the Lessee.

5. Return of Cars: Except as provided in Section 22 hereof, at the expiration or termination of this Agreement as to any Car(s), Lessee will surrender possession of such Car(s) to Lessor by delivering the same to Lessor on the track of Lessee at the sole expense and risk of Lessee. If such Cars are not on the railroad line of Lessee upon termination, any cost of remarking, assembling, delivering, storing and transporting such Cars to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by Lessee. If such Cars are on the railroad

line of Lessee upon expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at Lessee's expense and designation within five working days from notification by Lessor remove Lessee's railroad markings from the Cars and place thereon such markings as may be designated by Lessor, at the cost and expense of Lessee. After the removal and replacement of markings, Lessee shall use its best efforts to load such Cars with freight and in any case shall deliver them to a connecting carrier for shipment. Lessee shall provide up to one hundred twenty (120) days free storage on its railroad tracks for Lessor of any terminated Car.

6. Maintenance: Lessee agrees to maintain at its own expense each of the Cars in good condition and repair, in conformity with all applicable laws and regulations including the AAR Code of Rules and FRA Railroad Freight Car Safety Standards.

Lessee will, at Lessor's request, take such reasonable action as Lessor may specify to modify operating conditions within Lessee's control which in Lessor's reasonable opinion are causing undue and avoidable wear or damage to the Cars.

Neither party to this Agreement will alter materially the physical structure or allow any third party to alter materially the physical structure of any of the Cars without the other party's written consent.

7. Freight and Other Charges: Lessor shall not be obligated for the payment of any switching, freight, or other charges incurred by the movement or the holding of the Cars, either loaded or empty, during the term of this Agreement, all of which will be paid by Lessee. Lessor shall have no right or claim to any per diem, demurrage or other Car hire charges arising out of the use of the Cars and all such charges, as applicable, shall belong and be payable to Lessee.

8. Lettering of Cars: Lessee will supply reporting marks for the Cars in accordance with the AAR Code of Rules as indicated in Exhibit A. Lessee agrees to keep and maintain on the sides of each Car in letters not less than one-half inch in height the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION" or any other ownership stencil that currently appears on the Cars.

9. Responsibility for Taxes: Lessee agrees to assume responsibility for all taxes, costs, fines and assessments of every kind upon the Cars, and to file all reports relating thereto; provided, however, that Lessee shall not be responsible for federal or state taxes based upon the income of Lessor.

10. Responsibility for Lading: Lessor shall not be liable for any loss of, or damage to, commodities, or any part thereof, loaded or shipped in the Cars, however such loss or damage shall be caused, or shall result. The Lessee agrees to assume responsibility for, and to indemnify Lessor against, and to save

it harmless from, any such loss or damage or claim therefor.

11. Indemnification: Lessee agrees to indemnify and save Lessor harmless from any and all claims, demands, causes of action, cost, and expenses, including attorney fees, arising directly or indirectly out of the use, custody, control, or operation of the Cars, whether in contract, tort, strict liability in tort or otherwise. In any personal injury action(s) arising from the operation of said Cars naming Lessor as a defendant, Lessee agrees if Lessor so requests, to undertake the defense and costs associated therewith immediately upon tender of said defense, including payment of any judgement directed against Lessor jointly or severally. Lessee also agrees to pay and indemnify Lessor from any and all penalties, fines, and levies arising from the operation of said Cars under this Agreement. Lessee's obligations hereunder shall survive the termination of this Agreement.

12. Assignment: Lessee shall be entitled to the possession and use of the Cars in accordance with the terms of this Agreement. Except as herein provided, Lessee will not assign, transfer, encumber or otherwise dispose of this lease, the Cars or any part thereof, or sublet any Car without the prior written consent of Lessor. Lessee will not permit or suffer any encumbrances or liens to be entered or levied upon any Car, other than such as may arise by, through, or under Lessor or any assignee of Lessor's rights hereunder.

Lessee acknowledges and understands that Lessor may, without notice to Lessee, assign its interest under this Agreement and in and to the Cars to a bank or other lending institution as security for one or more loans. Lessee agrees, in the event of any such assignment and upon notice thereof from Lessor, and only in the event of such assignment to one or more such assignees: (i) to recognize such assignment; (ii) to make all payments of Lease Charges and other amounts due under the Agreement as so assigned directly to the assignee identified in such notice to or to its designee; (iii) to accept the directions or demands of such assignee in place of those of the Lessor; (iv) to surrender the Cars to such assignee upon termination of this Agreement; (v) that, in the event of such assignment and except as otherwise provided in Articles 4, 5, 6, or 9, Lessee's obligations hereunder with respect to payment of Lease Charges shall not be subject to any reduction, abatement, defense, set-off, counter-claim or recoupment for any reason whatsoever; (vi) except as otherwise provided in Articles 2, 4 (with respect to any Car which becomes Lessee's property), 5, 6, and Article 14, not to terminate this Agreement; provided, however, nothing contained in this Article 12 shall relieve Lessor from its obligations to Lessee hereunder, nor shall any assignee hereof be relieved of the obligation to release its interests in any Car to facilitate Lessor's obligations contained in the second paragraph of Article 4 hereof.

13. Remedies: If the Lessee after five business days notice shall fail to carry out and perform any of the obligations on its part to be performed under this Agreement, or if any

proceedings shall be commenced by or against Lessee for any relief under any bankruptcy, or insolvency, law or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition or extension, then, and in any of said events, Lessor shall have all rights available to it at law or in equity, including without limitation the right immediately to repossess the Cars, to remove the Cars from

the Lessee's service, to terminate this Agreement, and recover any and all damages sustained as a result of Lessee's fault. If Lessor shall terminate this Agreement pursuant to this Article 13, Lessee shall remain liable for all unpaid rent and other amounts due hereunder. The rights and remedies herein given to Lessor shall in no way limit its other rights and remedies given or provided by law or in equity.

14. Term of Agreement: This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The term of this Agreement with respect to all of the Cars shall be for twelve (12) months commencing upon the date when all cars on Exhibit A have been delivered as set forth in Section 2 hereof.

15. Notice: Any notice to be given under this Agreement shall be given by certified mail in the following manner:

(a) Notices from Lessor to Lessee shall be sent to:

Mr. John C. Larkin
President
Escanaba & Lake Superior Railroad
Wells, MI 49894

(b) Notices from Lessee to Lessor shall be sent to:

Helm Financial Corporation
One Embarcadero Center
Suite 3320
San Francisco, CA 94111
Attention: Director of Operations

16. Liability Insurance: Lessee shall procure at its own expense, and keep in effect during the term hereof, public liability insurance in the amount of five million dollars.

17. Execution: This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract. This Agreement may be signed in separate counterparts as long as each party hereto shall have signed at least one counterpart.

18. Governing Law: This Agreement shall be governed by New York law.

19. Amendments: There shall be no amendments to this Agreement without the consent of the Lessor and Lessee.

20. Late Charges: Delinquent payments shall bear interest at the rate of 1.50% per month, if not prohibited by law, otherwise at the highest lawful contract rate.

21. Purchase Option: The Lessor shall extend to the Lessee a purchase option at the expiration of this Agreement in the amount of _____ per Car on all but not less than all of the sixty (60) cars described in Exhibit A so long as the following conditions are met:

A. Lessee is not in default under this Agreement.

B. The monthly Payments paid to the Lessor relating to all but not less than all of the sixty (60) cars described in Exhibit A shall have been _____ per car per month for a term of twelve (12) months.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed and delivered that day and year first above written.

ATTEST: _____

Joy Liebel

~~LESSEE:~~ *MC*
~~LESSOR:~~

By: _____

John Larkin

Title: President

Date: October 16, 1987

ATTEST: _____

Allen Adams

~~LESSEE:~~ *MC*
~~LESSOR:~~

By: _____

Title: President

Date: 10/22/87

EXHIBIT A
EQUIPMENT DESCRIPTION

<u>Description</u>	<u>Number of Cars</u>	<u>Lease Term</u>	<u>Lease Charges</u>	<u>Original Car Markings</u>	<u>New Car Markings</u>
70 ton roller bearing 50 foot RBL & XPI boxcars	60	12 months	per	CR 360115 CR 360299 CR 360303 CR 360305-307 CR 360313 CR 360321-322 CR 360337 CR 360341 CR 360346 CR 360355 CR 360359-360 CR 360371 CR 360373-374 CR 360383 CR 360388-389 CR 360400 CR 360435 CR 360441 CR 360847 CR 360849 CR 360852-853 CR 360858 CR 360866-867 CR 360871 CR 360873 CR 360877 CR 360883 CR 360887 CR 360905 CR 360907 CR 366300-301 CR 366303 CR 366305-306 CR 366308-309 CR 366311-312 CR 366315-317 CR 366319-320 CR 366322-325 PC 360333 PC 360340 NY 78596 NY 78651	ELS 360115 ELS 360299 ELS 360303 ELS 360305-30 ELS 360313 ELS 360321-32 ELS 360337 ELS 360341 ELS 360346 ELS 360355 ELS 360359-36 ELS 360371 ELS 360373-37 ELS 360383 ELS 360388-38 ELS 360400 ELS 360435 ELS 360441 ELS 360847 ELS 360849 ELS 360852-85 ELS 360858 ELS 360866-86 ELS 360871 ELS 360873 ELS 360877 ELS 360883 ELS 360887 ELS 360905 ELS 360907 ELS 366300-30 ELS 366303 ELS 366305-30 ELS 366308-30 ELS 366311-31 ELS 366315-31 ELS 366319-32 ELS 366322-32 ELS 360333 ELS 360340 ELS 78596 ELS 78651